

OFFICE OF THE SECRETARY
**U.S. Department
of the Interior**

www.doi.gov

News Release

Office of the Assistant Secretary-Indian Affairs

FOR IMMEDIATE RELEASE
January 3, 2012

CONTACT: Nedra Darling
202-219-4152

Echo Hawk Issues Reaffirmation of the Tejon Indian Tribe's Government-to-Government Status

WASHINGTON, D.C.— In a letter to the Tejon Indian Tribe of California, Assistant Secretary—Indian Affairs Larry Echo Hawk reaffirmed the federal relationship between the United States and the Tejon Indian Tribe. The Assistant Secretary's letter confirms that the Tribe has a relationship with the federal government.

The Tejon Indian Tribe first requested confirmation of its status in 2006. Due to an administrative error, the Bureau of Indian Affairs (BIA) failed for several years to place the Tejon Indian Tribe on the list of federally recognized tribes that the BIA is required to publish annually. That list, entitled "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," was last published in the Federal Register on October 1, 2010 at 75 FR 60810, and the list was supplemented on October 27, 2010 at 75 FR 66124.

In his letter to the Tejon Indian Tribe, the Assistant Secretary stated that "[u]pon review of the facts and history of this matter, including prior Assistant Secretaries' decisions, I hereby reaffirm the federal relationship between the United States and the Tejon Indian Tribe, thus concluding the long and unfortunate omission of the Tejon Indian Tribe from the list of federally recognized tribes."

The Assistant Secretary-Indian Affairs discharges the duties of the Secretary of the Interior with the authority and direct responsibility to strengthen the government-to-government relationship with the nation's 566 federally recognized tribes, advocate policies that support Indian self-determination, protect and preserve Indian trust assets, and administer a wide array of laws, regulations and functions relating to American Indian and Alaska Native tribes, tribal members and individual trust beneficiaries. The Assistant Secretary oversees the Bureau of Indian Affairs and the Bureau of Indian Education. For more information, visit www.indianaffairs.gov.

-DOI-

Hand Carry -- Do Not Include With Routine Mail

U.S. DEPARTMENT OF THE INTERIOR
Indian Affairs - FOIA/PA CONTROL OFFICE
Telephone: (202) 208-4542, Mail Stop 3071-MIB

Secretary's Control No.

BIA-2012-00422

2/03/2012

☒ New ☐ F/U ☐ Document Referral ☐ Remanded FOIA

Action Office:

Signature Information:

AS-1A

Received IA/BIA:

Copies of Incoming Sent to:

1/05/2012

PACIFIC

FOR ACTION OFFICE USE (Below)

CHECK APPLICABLE ITEM(S): *Complete Illustration 1, Form 24 IAM 1, Parts 1 thru 9*

No reply required

Acknowledge; copy to Region for direct reply

Acknowledge only

Acknowledge copy to Region with request for report

Staff member to whom assigned:

Extension

ROUTING

[illegible]

RETURN THIS FORM AND ATTACHED CORRESPONDENCE TO
IA-FOIA OFFICER AFTER SIGNATURE/SURNAME

Jennifer A. MacLean
PHONE: (202) 434-1648
FAX: (202) 654-9665
EMAIL: JMacLean@perkinscoie.com

700 Thirteenth Street, N.W., Suite 600
Washington, DC 20005-3960
PHONE: 202.654.6200
FAX: 202.654.6211
www.perkinscoie.com

January 4, 2012

VIA ELECTRONIC MAIL TO FOIA@BIA.GOV

Ms. Laura Cloud, FOIA Officer
Office of Asst. Secretary/BIA
MS-3071, MIB
1849 C Street, NW
Washington, DC 20240

Mr. Douglas Garcia, FOIA Coordinator
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Ms. Juanita Clifford, FOIA Coordinator
Department of the Interior – OFA/AS-IA
MS 34B-SIB
1951 Constitution Ave, NW
Washington, DC 20251

Re: **Request under FOIA for Materials Pertaining to Reaffirmation of Tejon
Indian Tribe's Government-to-Government Status**

Dear Ms. Cloud, Mr. Garcia and Ms. Clifford:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.*, and the Department of the Interior FOIA regulations at 43 C.F.R. Part 2, I am writing to request information regarding the Bureau of Indian Affairs' recent decision to reaffirm the government-to-government relationship between the Tejon Indian Tribe of California and the federal government.

We are seeking all documents pertaining to Assistant Secretary Echo Hawk's Reaffirmation of the Tejon Indian Tribe's government-to-government status, issued by the BIA, and covered in a U.S. Department of the Interior Office of the Secretary News Release dated January 3, 2012. (See attached.) We request that you include any and all documents related to the Tejon Indian Tribe, materials filed in conjunction with their notice of intent to petition for acknowledgment, documents relating to their reaffirmation, evidence supporting demonstrating BIA's error in failing to include the Tribe on the list of Indian Entities Recognized and Eligible to Receive

Services from the United States Bureau of Indian Affairs, and any other documents, including but not limited to legal or factual analyses supporting their reaffirmation as opposed to proceeding under the Part 83 recognition process. We are filing this request with BIA, as well as with the Office of Federal Acknowledgment/Assistant Secretary-Indian Affairs and the Pacific Regional Office, in case documents pertaining to this decision are located in more than one office. Please consult with additional offices if this allows you to provide a more thorough response.

For purposes of this request, the term *documents* should be construed in the broadest sense to include letters, memoranda, facsimiles and facsimile cover sheets, telephone message logs, emails, calendar entries, tapes/cds/dvds, transcripts, meeting notes, and any other responsive materials. Such documents should be included regardless of their source, including personal computers, cell phones, or other means of communication. In the event that you believe any of the documents requested in this letter may not be disclosed in their entirety, we request that you release any disclosable material that can be reasonably segregated. In addition, please state with specificity the legal and factual grounds for withholding any document or portions of a document, including a reasonably detailed description of the material being withheld. While we would prefer electronic files, please provide the materials in the format that allows for the most rapid response possible.

In light of a recent Presidential directive urging transparency in government, we request full disclosure. In his January 21, 2009, memorandum, President Obama directed that "[a]ll agencies should adopt a presumption in favor of disclosure." 74 Fed. Reg. 4,683 (Jan. 26, 2009). This presumption in favor of disclosure was reinforced by Attorney General Holder's March 19, 2009, memorandum to agency heads in which he "strongly encourages" agencies to make discretionary disclosures. He states that FOIA denials will only be defended "if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or (2) disclosure is prohibited by law." Further, Secretary Salazar's June 2, 2009, memorandum to all Department of the Interior employees regarding Attorney General Holder's guidelines further emphasized the importance of accountability and transparency: "The Department will only withhold information when we reasonably can foresee that its release would harm an interest protected by a FOIA exemption (e.g., our national security or the privacy interests of individuals) or when disclosure is prohibited by statute."

Please note that Perkins Coie is willing to pay for the processing of this request. If you are able to provide us with a cost estimate at the beginning of the process, please do so. For purposes of fee classification, Perkins Coie should be considered in the category of "other." We are engaged in the practice of Indian law, and this information is critical to our informed representation of our Indian law clients. Moreover, since the information requested herein is not readily available to the general public, its release through FOIA is likely to contribute significantly to public understanding of the operations or activities of BIA with regard to reaffirmation of Indian tribes.

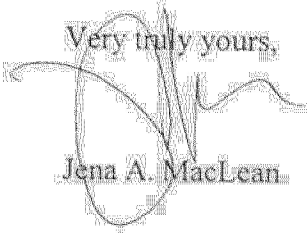
January 4, 2012

Page 3

In light of the foregoing, we request that your office respond with all the records responsive to this request, in complete and unredacted form, within twenty working days, as required by the FOIA, 5 U.S.C. § 552(a)(6)(A)(i).

Thank you for your immediate attention to this request. Please contact me at (202) 434-1648 if you have any questions.

Very truly yours,



Jena A. MacLean

Lincoln, Shirley

To: LeaderCharge, Carol; Dutschke, Amy; Risling, Leonard; Cloud, Laura
Cc: Garcia, Doug; Whipple-Depina, Janice
Subject: RE: ASIA - FOIA request Tejon Indian Tribe
Attachments: BIA-2012-00422 Tejon Indian Tribe.pdf; BIA-2012-00422 Current Member of Tejon Indian Tribe.pdf

FOIA - BIA-2012-00422 Tejon Indian Tribe

Attached are records that are response to the FOIA request for the Tejon Indian Tribe. Please note the second attachment is the Current Members list for Tejon that is a legal size document and is included first scan however, it was cut-off and copied again in letter size. Any questions please refer to the numbers below.

Shirley Lincoln
Tribal Operations Specialist
Pacific Region
916-978-6063
916-978-6099 FAX
Shirley.lincoln@bia.gov

From: Garcia, Doug
Sent: Wednesday, January 18, 2012 7:56 AM
To: Jackson, Elizabeth; Lincoln, Shirley
Cc: Whipple-Depina, Janice; Dutschke, Amy; Russell, Lorrae; LeaderCharge, Carol; Cloud, Laura
Subject: ASIA - FOIA request Tejon Indian Tribe

Listed is a FOIA request for the Tejon Indian Tribe, see records request listed below. The Assistant Secretary Indian Affairs office will be processing this request - responding to the request - please not the instructions for gathering the records. If you have records, please scan them and provide to Carol LeaderCharge. This has a short time frame, due this Friday Jan. 20. Please copy me and Jan Whipple with you reply. Questions please call 978-6052.

For your information - Jan Whipple DePina will be taking over for Lorrae Russell as the Alternate FOIA Coordinator for the Region. I would like to thank Lorrae for all her efforts, assistance and good will.

Douglas

From: LeaderCharge, Carol
Sent: Friday, January 13, 2012 2:31 PM
To: Smith, Michael R.; Black, Michael; Penland, Starr; Martin, Matthew; Loudermilk, Weldon; Garcia, Heather; Appel, Elizabeth; Killsback, Dion K; Tsosie, Paul; Echohawk, Larry; Newland, Bryan; Laverdure, Del; Gillette, Jodi; Simermeyer, Sequoyah; Fleming, Lee; Clifford, Juanita; Dutschke, Amy; Goodwin, Loretta; Garcia, Doug; Darling, Nedra; Pete, Darren; Blackmon, Dajuana; Atine, Patrese
Cc: Cloud, Laura; Hartgrove, Monique; Renick, Hillary E; Wolf, Douglas; Berrigan, Michael
Subject: FOIA request Tejon Indian Tribe
Importance: High

TO: Mike Smith, Mike Black, Starr Penland, Matthew Martin, Bruce Loudermilk, Heather Garcia, Liz Appel, Dion Killsback, Paul Tsosie, Larry Echohawk, Bryan Newland, Del Laverdure, Jodi Gillette, Sequoyah Simermeyer, Lee Fleming, Juanita Clifford, Amy Dutschke, Loretta Goodwin, Douglas Garcia

CC: Laura Cloud, Monique Hartgrove, Hillary Renick

Good Afternoon Folks,

We have a FOIA request (attached) for which we need a timely and coordinated response. The requestor has asked for any and all documents:

- related to the Tejon Indian Tribe (Tribe);
- filed in conjunction with the Tribe's notice of intent to petition for acknowledgment;
- relating to the Tribe's reaffirmation;
- supporting /demonstrating the Department's position that BIA was in error in failing to include the Tribe on the list of recognized tribes;
- supporting the Tribe's reaffirmation as opposed to proceeding under the Part 83 recognition process (including but not limited to legal or factual analyses).

In addition, please include prior OFA guidance (from 2006-07?), Part 83 decisions reaffirming Tribal status, including but not limited to Ohlone (Muwekma), Ione, Lower Lake, King Salmon, or Shoonag.

Please forward "all documents" responsive to this request to me by **COB Friday, January 20, 2012**. This request includes letters, memoranda, facsimiles, telephone logs, emails, calendar entries, tapes/cds/dvds, transcripts, meeting notes, and other responsive materials.

To facilitate our review and assembly of documents responsive to the FOIA request please do the following:

- Documents should be provided on a jump drive, compact disk or DVD in PDF format;
- Documents should be provided in reverse chronological order;

- * Applicable documents will include emails and their attachments, memoranda, and other documents produced, drafts of documents, and communications received and sent.
- * Documents should each be scanned as separate documents in PDF format. Each email should be scanned as a separate document, and attachments should be included with the email in the same PDF.

Thank you for your attention in this matter.

Carol Leader Charge

Desk phone 202.208.7324 / work cell 202.603.3392

Tejon Indian Tribe
Community of 1/2 Blood

Bureau of Indian Affairs
Pacific Region
Sacramento, CA

May 5, 2008

FOIA6

	Lname	Fname	Middle	Maiden/Other Names	DOB	Blood Degree	DOD	Father	Mother	Blood Degree
1						1/2				4/4
2						1/2				4/4
3						1/2				4/4
4						4/4				4/4
5						1/2				4/4
6						4/4				4/4
7						1/2				4/4
8						1/2				4/4
9						1/2				4/4
10						4/4				4/4
11						1/2				4/4
12						7/8				3/4
13						3/4				1/2
14						7/8				3/4
15						4/4				4/4
16						3/4				1/2
17						7/8				3/4
18						7/8				3/4
19						7/8				3/4
20						7/8				3/4
21						4/4				4/4
22						4/4				4/4
23						7/8				3/4
24						1/2				4/4
25						7/8				3/4
26						7/8				3/4

Completed: 5/5/2008
Pacific Region
Sacramento, CA

Tejon Indian Tribe
Community of 1/2 Blood

Bureau of Indian Affairs
Pacific Region
Sacramento, CA

May 5, 2008

FOIA6

Page two.

[illegible]

Completed: 5/5/2008
Pacific Region
Sacramento, CA

ATTACHMENT 1

5/14/2008 – Letter from Regional Director to Assistant Secretary –
BIA, re: Certificates of Degree of Indian Blood for the Tejon Indian
Tribe.

5/5/2008 – Listing names of individuals and their blood degrees –
recommend not to release – Exemption 6

MAY 14 2008

Mr. Carl Artman, Assistant Secretary, Bureau of Indian Affairs
Office of the Deputy Bureau Director - Indian Services
1849 C Street, N.W., MS 4606-MIB
Washington, D.C. 20240

Dear Mr. Artman:

We have enclosed 35 Certificates of Degree of Indian Blood (CDIB) for individual Indians of the Tejon Indian Tribe. Also enclosed are: A Summary Report titled Tejon Indian Tribe Community of 1/2 Blood, original CDIBs, Family Tree Charts, and backup documents. The backup documents are being provided for those individual Indians who were eligible to participate in one of the three California Indian Census Rolls¹.

Those individual Indians that did not apply for the California Indian Census Rolls¹ provided a birth and death certificate to verify that they were descendant of an Indian person on the 1928 California Indian Census Roll. The blood degrees were calculated from the 1928 California Census Rolls.

The purpose of identifying those members with one-half or more Indian blood is to assist the Tejon Tribe's request for restoration of their federal status.

Copies of the same information have been provided to Katherine Morgan, Chairperson of the Tejon Indian Tribe on May 13, 2008. Should you have any questions, please contact Shirley Lincoln, Tribal Operations Specialist, at (916) 978-6063.

Sincerely,

Dale Morris
Regional Director

Enclosures

35 CDIBs

9 - 1928 Applications

cc: Katherine Morgan
Central California Agency

¹ The Act of May 18, 1928 (45 Stat. L. 602), 1948 amendment to the 1928 Act (62 Stat. 1166), 1950 amendment to the 1928 Act, (64 Stat. 189), and the Act of September 2, 1968 (82 Stat. 860 & 861)

TO:sjl/05/13/2008/3201P-5 Acknowledgement Files/Tejon Indian Tribe

FOIA6

CIB = Certificate of Indian Blood
CLB = Certificate of Live Birth
CDB = Certificate of Birth
D = Death record

DOB = Date of Birth
DOD = Date of Death
DROR = Delayed Registration of Birth
Ind = Indian

NA = Not applicable
NE = Not enrolled
SLB = State Certificate of Live Birth
U = Unknown/not listed

62 = Maria Garcia
67 = Refugio Duran
69 = Ramon Gomez
76 = Augustine Haro
72 = Maria A. Escobar

73 = Jose M. Montes
76 = Aurelia Rodriguez
147 = Mariana Garza
1112 = Marcelino Rivera
1013 = Petra Martinez

CIB issued by Central California Agency on February 25, 1987, for Francisca Garza Natchi, stating that she is "1/4 San Fernando Tejon/Chumash."
CIB issued by Central California Agency on August 31, 1978, for Lola Cerda, granddaughter of Irene (Montes) Gonzalez, 424 Tejon, stating that she is "1/4 Tejon."
CIB issued by Central California Agency on April 15, 1987, for Dick William Montes, stating that he is "7/8 Tejon/Pomareneno."

CLAIMED ANCESTORS

7/24/07 DRAFT

Last		First	Middle Maiden	DOB	DOD	Year BO	Record Chain	Father	Mother	1903	1910	1920	1928	1930	1940	1950	1960	1970	School	Church	Notes	Current Member(s)
Large	Marriage	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large	Large
				1911-06-17	1984-05-23	DC	40			NA	NA	NA	NA	NA	NA	NA	NA	NA				
				1917-06-10	1972-11-01	DC	39			NA	NA	NA	NA	NA	NA	NA	NA	NA				
				1908-12-01	1961-05-05		49															
				1915-12-30	1994-12-04		73			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1912-08-26	2001-08-26		44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1920-07-11	2004-03-22		14			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1910-08-13	1936-07-08		48			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1876-05-28	1941-03-11	DC	40			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1912-06-24	1932-01-28	DC	40			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1895-08-28	1945-04-30	DC	44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1902-12-11	1963-05-28		49			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1900-10-05	1991-04-17		44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1917-05-04	1993-10-12	DC	40			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1888-10-06	1940-02-25		17			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1896-02-08	1920-08-19		43			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1878-01-18	1936-01-22		45			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1880-11-01	1920-09-01	DC	39			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1879-02-21	1938-05-05		43			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1885-12-11	1916-04-03		43			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1850-03-04	1916-02-17		7			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1865-01-18	1922-05-01	DC	44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1889			44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1884	1908-05-04 Age 105	DC	44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1881-1885	1927-04-24 Age 42	DC	46			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1890-06-14	1922		32			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1819-1837	1923-06-26 Age 75	DC	44			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1850-1853	1880 Age 43		43			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1872-1873	Age 1200		47			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1859-1861	1916		40			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1853	1877-09-07		3			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				
				1840	1902		2			Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind	Ind				

FOIA6



Amy
Dutschke/PHOENIX/BIA/DOI
04/16/2008 12:54 PM

To: Dale Risling/PHOENIX/BIA/DOI@BIA, Fred
Doka/PHOENIX/BIA/DOI@BIA, Shirley
Lincoln/PHOENIX/BIA/DOI@BIA

cc

bcc

Subject: Fw: Tejon

FYI I talked to the Assistant Secretary and advised him that we had met with Kathy Morgan on Tuesday and that we can agreed to try and get the certifications completed prior to their general meeting at the end of May. Please let me know if you have any questions.

Amy

----- Forwarded by Amy Dutschke/PHOENIX/BIA/DOI on 04/16/2008 11:52 AM -----

Carl Artman/DC/BIA/DOI

04/16/2008 11:18 AM

To: Amy Dutschke/PHOENIX/BIA/DOI@BIA

cc

Subject: Tejon

Amy:

I believe you have received the boxes with the Tejon files. You should find in there material dated June 6, 2006, in which the Tejon tribe submitted a request for Confirmation of Status requesting the Department to correct its list of tribal entities to include the Tejon Indian Tribe. The tribe submitted materials seem to show the United States treated the Tejon as a government: treaty negotiations with the Tribe, DOJ litigating land claims on behalf of the Tribe in the 1920's, United States attempts to purchase land for the Tribe, and a set aside of public lands as a reservation for the El Tejon Band of Indians. The 2006 request included an alternative request that it be allowed to organize as a half-blood Indian community pursuant to the statutory process established in the Indian Reorganization Act.

It seems to me the exceptional historical circumstances at Tejon support possible reorganization as a half-blood community, assuming all necessary and appropriate facts are present. To make the initial factual determination, the Bureau requested additional genealogical information from the tribe to establish blood quantum of the individuals referenced in the ancestry charts I am faxing to you today. Based on OFA's review of additional genealogical data submitted by the tribe and OFA's preparation of the ancestry charts, it appears as though the individuals in the charts have the necessary degree of Indian blood. The computation of Indian blood quantum is based on the 1929 Indian Census Roll of Kern County, CA and the relationship of the individuals on the 1929 Indian Census to the individuals listed in the charts.

Based on this information, and in accordance with agency practice, I ask that your office issue CDIB determinations in accordance with the ancestry charts if your interpretation is similar to mine. When we spoke of this, you mentioned you could do these in a matter of days. Please expedite this process, as we have made the tribal members wait far too long for such a simple request as we analyzed and studied their submissions.

Although you should have the contact information in the boxes I sent you, you may send the completed CDIB determinations/cards to Chariwoman Kathryn Montes Morgan, 2234 4th street, Wasco, CA 93280. You may reach her at 661.747.4957.

Call me if you have any questions. Thank you Amy.

Carl J. Artman

Assistant Secretary -- Indian Affairs

ATTACHMENT 2

4/14/2008 Memo from Shirley Lincoln, Tribal Operations Specialist
to Files

June 30, 1929 – Indian Census Roll

11/13/2007 – Letter from Lawrence S. Roberts, Patton Boggs, LLP,
Attorney at Law, to R. Lee Fleming, Office of Federal
Acknowledgment, re: Certification of Blood Quantum for Tejon Tribal
Members of One-Half or More Indian Blood

Memorandum

To: Files

CC:

From: Shirley Lincoln, Tribal Operations Specialist

Date: 4/14/2008

Re: Tejon Indian Tribe, Petitioning the Federal Government to be Federal Recognized

April 14, 2008, 1:00 pm at the Pacific Region, small conference room, a meeting was held with Kathryn Montes Morgan, representative for the Tejon Indian Tribe, and Amy Dutschke, Acting Regional Director, Dale Morris, Natural Resources Officer, Dale Risling, Sr., Deputy Regional Director - Indian Services, Fred Doka, Sr., Tribal Operations Officer, and Shirley Lincoln, Tribal Operations Specialist, to introduce herself and discuss the request for issuing CDIBs for the Tejon Indian Tribe. There are 27 individual Indians in all to complete their Family Tree Charts and issue CDIBs for each person. Kathryn Morgan has also met and worked for the past year and one-half with Lee Fleming, Office of Federal Acknowledgment, Washington, D. C., to do their research and meet all requirements according to his office.

Carl Artman and Amy Dutschke have spoken earlier regarding the Tejon Indian Tribe and Carl Artman and have requested the Pacific Regional office to complete the family tree charts and issue CDIBs for each person for the Tribe. Kathryn has mentioned that she would like to have the CDIBs completed by May 23, 2008, if possible, for their Meeting and she would drive to Sacramento to pick them up.

Tejon Indian Tribe will be coming in as a Tribe with $\frac{1}{4}$ Indian Blood for their Base Roll.

Tejon Indian Tribe
Kathryn Montes Morgan
2234 4th Street
Wasco, CA 93280

INDIAN CENSUS - LL

Page 1

RECEIVED

AUG 20 2007

Census of the Kern County

tribe of the

reservation of the Sacramento

jurisdiction, as of

June

30

, 19 29

taken by

L. A. Dorrington

Superintendent

CENSUS NUMBER		NAME		Allment, Annuity, Identification Numbers	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last	Indian	English			Mo.	Day	Year			
1		Plato							1/2	M	Head
2		Plato							4/4	M	Wife
3		"							1/2	S	Son
4		"							1/2	S	"
5		"							1/2	S	Dau
6		"							1/2	S	Son
7		"							1/2	S	"
8		"							1/2	S	Dau
9		"							1/2	S	"
10		"							1/2	S	"
11		"							1/2	S	Son
12		"							1/2	M	Head
13		"							1/2	M	Wife
14		"							3/8	S	Son
15		"							3/8	S	"
16		"							3/8	S	"
17		"							4/4	Wd	Head

FOIA6

INDIAN CENSUS

Page 2

Census of the Kern County

tribe of the

reservation of the

Sacramento

jurisdiction, as of

June

30

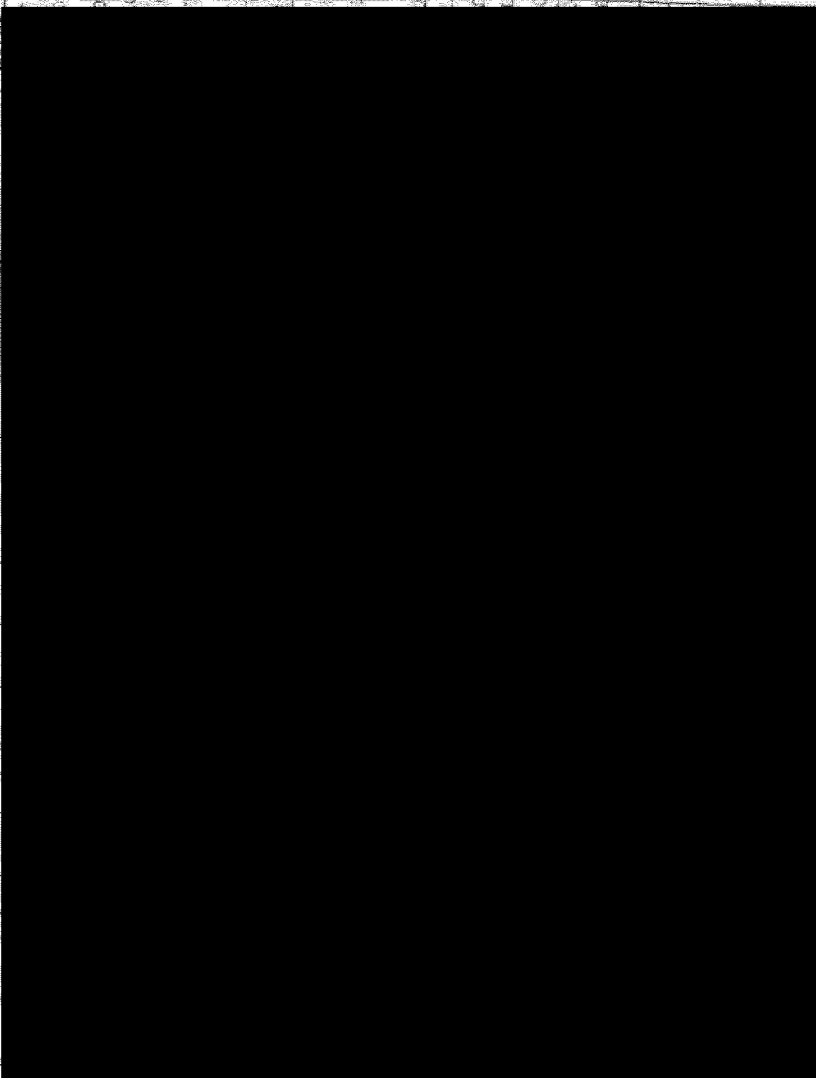
19 29

taken by

L. A. Dorrington

Superintendent

5-7112

CENSUS NUMBER		NAME	Allotment, Annuity, Identification Numbers	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last				Mo.	Day	Year			
18		Pinto								
19		"							S	Son
20		"							S	"
21		"							S	Dau
22		"							S	"
23		"							S	Son
24		"							S	"Son
25		"							M	Head
26		"							M	Head
27		"							S	Son
28		"							S	Dau
29		"							S	Son
30		" husband Mexican							S	Dau
31		"						4/4	M	Head
32		"						4/4	S	Dau
33		"						4/4	S	Son
34		"							S	Dau
									S	" 109

FOIA6

INDIAN CENSUS ROLL

Page 3

Census of the Kern County

tribe of the

reservation of the Sacramento

jurisdiction, as of June

80

10 20

taken by

L. A. Dorrington

Superintendent.

6-7712

CENSUS NUMBER		NAME		Allotment, Annuity, Identification Numbers	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last	Indian	English			Mo.	Day	Year			
			Surname	Given							
35		Plute									
36		"									Dau
37		Tejon									"
38		"									Head
39		"									Dau
40		"									Son
41		"									"
42		"									Dau
43		"									Son
44		husband Plute Mexican									Niece
45		"									Wife
46		"									Son
47		"									Dau
48		"									"
49		"									"
50		Tejon									Son
51		"									Head
52		"									Son

INDIAN CENSUS

Page 4

Census of the Kern County

tribe of the

reservation of the Sacramento

jurisdiction, as of

June

30

1920

taken by

L. A. Dorrington

Superintendent.

CENSUS NUMBER		NAME	Allotment, Acquity, Identification Numbers	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last				Mo.	Day	Year			
52		Tejon								
53		"						4/4	M	Wife 65
54		"						1/2	S	Dau
55		San Fernando						1/2	S	"
56		Tejon						1/2	M	Head 65
57		"						4/4	M	Wife 1
58		"						1/2	S	Son
59		"						1/2	S	Dau
60		"						1/2	S	"
61		"						1/2	S	"
62		"						1/2	S	"
63		"						4/4	S	Son 1
64		"						4/4	S	"
65		"						4/4	Dvd	Head 15
66		"						4/4	S	Dau
67		Plute						4/4	S	Son
68		"						1/2	M	Head 65
								1/2	M	Wife 65

FOIA6

FOIA6

INDIAN CENSUS ROLL

Page 6

(Census of 1900)

Kern County

tribe of the

reservation of the

Sacramento

jurisdiction, as of

June

30

1900

taken by

L. A. Dorrington

Superintendent.

CENSUS NUMBER		NAME		Allotment, Annuity, Identification Numbers	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last	Indian	English			Mo.	Day	Year			
86		Pluta									
87		"							4/4	Wd	Head
88		"							3/4	S	Son
89		"							3/4	S	Daughter
90		"							4/4	M	Head
91		"							4/4	M	Wife
92		"							4/4	S	Daughter
93		"							3/4	S	Head
94		"							1/2	M	"
95		"							1/2	M	Wife
96		"							1/2	S	Son
97		"							1/2	S	"
98		"							1/8	S	Gr. Daughter
99		"							1/2	S	Son
100		"							1/8	S	Gr. Son
101		"							1/2	S	Son
102		" husband Mexican							1/2	S	Daughter
									4/4	M	Head

INDIAN CENSUS ROLL

Page 7

Census of the Kern County

tribe of the

reservation of the Sacramento

Jurisdiction, as of

June
(Month)

30
(Day)

19 20
(Year)

taken by

L. A. Dorrington

Superintendent

6-713

CENSUS NUMBER		NAME	Allotment, Adually, Identification Numbers	SEX	DATE OF BIRTH			Degree of Blood	Marital Condition	Relation to head of family
Present	Last				Mo.	Day	Year			
103		Indian								
104		"								
105		"								
106		"								
107		"								
108		"								
109		Tajon								
110		"								
111		"								
112		"								
113		"								
114		"								
115		"								
116		"								
117		"								
118		"								
119		"								

FOIA6

INDIAN CENSUS ROLL

Page 8

Census of the Kern County

tribe of the

reservation of the Sacramento

jurisdiction, as of June 30, 1923

(Month)

(Day)

(Year)

taken by

L. A. Dorrington

Superintendent.

0-7712

CENSUS NUMBER		NAME	Allotment, Acreage, Identification Number	SEX	DATE OF BIRTH	Degrees of blood	Marital condition	Relation to head of family
Present	Last							
120		Tejon						
121		"				1/4	S	Son
122		"				1/4	S	"
123		"				1/4	S	"
124		husband white Shoshone				1/4	S	Gr Son
125		"				1/4	S	Wife
126		"				1/4	S	Son
127		"				1/4	S	"
128		husband white Plute				1/4	S	"
129		"				1/4	S	Wife
130		"				1/4	S	Son
131		"				1/4	S	Wife
132		"				1/4	S	Son
133		Tejon				1/4	S	Wife
134		Plute				1/4	S	Head
135		"				1/4	S	Head
136		Pueblo				1/4	S	Wife
						1/4	S	Head

FOIA6

INDIAN CENSUS ROLL

Page 9

Census of the Kern County

tribe of the

reservation of the

San Antonio

jurisdiction, as of

June

30

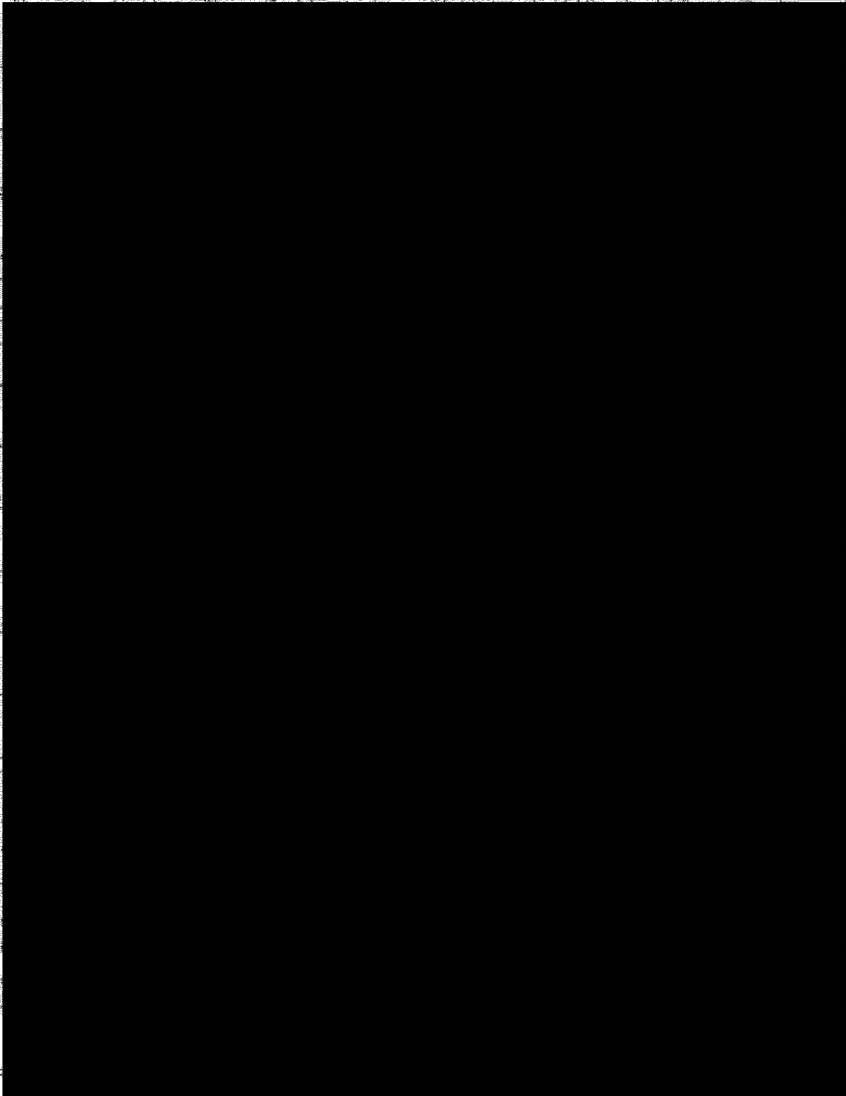
19 20

taken by

L. A. Borington

Superintendent.

6-7713

CENSUS NUMBER		NAME	Allotment, Annuity, Identification Number	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last				Mo.	Day	Year			
137		Pinto								100
138		J. Pueblo							Wife	
139		"			7	10			son	
140		"			7	10			son	103
141		"			4	4			head	101
142		Monacha			4	4			head	102
143		"			4	4			head	103
144		Pinto			4	4			Wife	
145		Uagui			4	4			head	104
146		Pinto			4	4				
147		husband white			4	4			Wife	
148		"			4	4				106
149		"								
150		"								
151		"								
152		"							son	
153		"								108

FOIA6

INDIAN CENSUS

Page 10

Census of the Kern County

tribe of the

reservation of the Sacramento

jurisdiction, as of

June

30

1920

taken by

L. A. Dorrington

Superintendent.

CENSUS NUMBER		NAME		Allotment, Annuity, Identification Numbers	SEX	DATE OF BIRTH			Degree of blood	Marital condition	Relation to head of family
Present	Last	Indian	English			Mo.	Day	Year			
154		husband Mexican									
155		Plute							4/4	W	Wife
156		"							1/2	S	Daughter
157		"							1/2	S	"
158		Serrano							3/4	S	"
159		Rejon							3/4	W	Head
160	FOIA6	"							4/4	W	Wife
161		"							1/2	S	Daughter
162		Plute							1/4	S	"
163		"							1/4	W	Head
164		"							1/2	W	Wife
165		" husband white							3/4	S	Son
166		"							1/2	W	Wife
167		"							1/4	S	Daughter
168		"							1/4	S	"
169		"							1/8	S	"
170		"							1/8	S	Son
									4/4	W	Head

INDIAN CENSUS ROLL

Page 11

Census of the

Kern County

tribe of the

reservation of the

Declaración

jurisdiction, as of

June



10

aken by

L. A. Dorrington

Superintendent

0-7733

CENSUS NUMBER		NAME		Allotment, Annuity, Identification Numbers	SEX	DATE OF BIRTH			Degree of Blood	Marital condition	Relation to head of family
Present	Last	Indian Surname	English Given			Mo.	Day	Year			
171		P...	[REDACTED]						S	Son	708
172		P...	[REDACTED]						S	Dau	
173		H	[REDACTED]						S	Son	109
174		H	[REDACTED]						S	"	108
175		H	[REDACTED]					4/4	M	Head	96
176		H	[REDACTED]					4/4	M	Wife	91
177		H	[REDACTED]					4/4	S	Son	94
178		H	[REDACTED]					4/4	S	"	
179		H	[REDACTED]					4/4	S	Dau	7

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PATTON BOGGS LLP
ATTORNEYS AT LAW

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www.pattonboggs.com

November 13, 2007

Lawrence Roberts

202-457-6495

L.Roberts@pattonboggs.com

VIA HAND DELIVERY

R. Lee Fleming

Director

Office of Federal Acknowledgment

U.S. Department of the Interior, MS 34B-SIB

1951 Constitution Avenue, N.W.

Washington, D.C. 20240

Re: Memorandum Regarding Certification of Blood Quantum for Tejon Tribal Members of One-Half or More Indian Blood

Dear Mr. Fleming:

Enclosed for your consideration is a memorandum setting forth the factual and legal basis to certify the thirty-five Tejon tribal members of one-half or more Indian blood. Please do not hesitate to contact me at (202)457-6495 if you have any questions.

Thank you very much for your time and attention.

Best regards,



Lawrence S. Roberts

cc: The Hon. Kathryn M. Morgan, Chair

received
4-9-2008
Spitzer

MEMORANDUM

TO: LEE FLEMING, DIRECTOR, OFFICE OF FEDERAL ACKNOWLEDGMENT

FROM: V. HEATHER SIBBISON
LAWRENCE S. ROBERTS
SUZANNE R. SCHAEFFER
AND
ARLINDA F. LOCKLEAR (OFFICE OF ARLINDA F. LOCKLEAR, ESQ.)

SUBJECT: CERTIFICATION OF BLOOD QUANTUM FOR TEJON TRIBAL MEMBERS OF ONE-
HALF OR MORE INDIAN BLOOD

DATE: NOVEMBER 13, 2007

INTRODUCTION

This memorandum provides the Tejon Tribe's views regarding the standards the Bureau will apply to certify those members with one-half or more Indian blood. See 25 U.S.C. § 479 (defining "Indian" for purposes of the Indian Reorganization Act as one-half or more Indian blood). We understand that the Bureau is close to completing this certification and issuing certificates of degree of Indian blood (CDIBs). The Tribe submits that application of the Department's longstanding guidance, administrative practice and proposed regulations to the genealogical facts set forth in the Department's own records compel the conclusion that 35 Tejon members possess at least one-half or more Indian blood.

Part I of this memorandum provides an overview of the federal records on which the Tribe relies to prove the blood quantum of 35 members with one-half or more Indian blood. Based on our meetings with the Department, we understand that, at a minimum, 28 members possess 1/2 or more Indian blood. As explained in more detail below, the crux of the difference rests upon the determination of blood quanta for five individuals, which in turn, will determine whether the remaining seven Tejon members possess one-half or more Indian blood. Part II provides the applicable legal standards that govern the Department's certification of blood quantum and applies those standards to the federal records relevant to Tejon tribal members.

PART I
FEDERAL RECORDS ESTABLISH THAT THIRTY-FIVE TEJON MEMBERS
POSSESS ONE-HALF OR MORE INDIAN BLOOD.

Over the course of the past year, the Tribe has worked closely with the Office of Federal Acknowledgment to locate federal records containing the blood quantum of tribal members and their ancestors. For the Tejon Tribe, there are three primary federal sources that provide Indian blood quantum information: 1) a federal Indian census conducted in 1929; 2) a 1933 federal census of California Indians; and 3) federally-approved applications to federal Indian schools (primarily the Sherman Indian School in California) or CDIBs. For all but a handful of individuals, these three sources are consistent in the quantification of Indian blood quantum. See Table I.

Our recent discussions with the Department have focused on the 1929 Indian census and the 1933 federal census of California Indians. The Bureau has indicated that it is inclined to accept the 1929 census as reliable, under which 28 of the 35 members have 1/2 or more Indian blood.¹ Under the 1933 census, 33 of the 35 members have one-half or more Indian blood. The difference between the two censuses is due to the fact that one ancestor [REDACTED] is included on the 1933 census but is not included on the 1929 census. As discussed in more detail below, all of the available evidence relating to [REDACTED] establishes her blood quantum as 4/4.

Only four individuals have inconsistent blood quanta records that need to be reconciled. See Table II. Resolution of those four individuals will necessarily determine the blood quanta of the 19 other individuals, 17 of which possess *at a minimum* one-half or more Indian blood. See Table III. Thus, the difference between the numbers arrived by relying only on the 1929 census and the Tribe's approach basically comes down to the resolution of the blood quantum for five individuals – the four individuals in Table II, and [REDACTED].

This Memorandum does not advocate that any one source is the definitive source for blood quantum. Rather, this Memorandum establishes that, for both practical and legal reasons, blood quantum must be determined by the totality of the evidence as it relates to the unique evidence available for Tejon tribal members.

We should note that one of the Tejon members, [REDACTED] recently passed away (see Tables I and IV). Although this memorandum requests confirmation for all 35 members, the actual number of living half-bloods is 34. Likewise, although this memorandum refers to 28 Tejon members possessing 1/2 or more Indian blood based on the 1929 census, the actual number of living members is 27.

TABLE I - TEJON MEMBERS FOR WHOM THE FEDERAL RECORDS REPORT A CONSISTENT BLOOD QUANTUM

Name	1929 Census	1933 Census	Federal Indian School Records or CDIB
FOIA6			None
			1/2
			1/2
			1/2
			1/2
			None
			None
			None
			None
			4/4
			7/8 ⁺
			4/4
			1/2
			1/2

Note: an " " indicates that the tribal member is not listed on these federal records but that the member's ancestors' Indian blood quanta are consistently recorded in the federal records thereby providing for a consistent determination of the current member's blood quantum. A "+" indicates that the member listed is deceased.

FOIA6			
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FOIA6

There is one current member and 3 ancestors of modern half-blood Tejon members for whom the blood quantum records are inconsistent but the totality of the evidence establishes a particular blood quantum. Resolution of these 4 individuals' blood quanta will determine the blood quanta for the individuals listed in Table III. The four individuals and the evidence establishing their respective blood quanta are identified in Table II below:

9 The fact that [REDACTED] is unquestionably 4/4 Indian blood based on all available evidence illustrates why, as a practical matter, the Bureau cannot simply rely on the 1929 census without looking at the totality of the evidence. If the Bureau were to rely solely on the 1929 Indian census, which contains no information for [REDACTED] such an arbitrary decision would adversely impact the blood quantum determinations for the following members: [REDACTED] As discussed in Part II, below, this approach is neither reasonable nor legally defensible.

TABLE II – TEJON MEMBERS OR ANCESTORS WITH INCONSISTENT RECORDS OF INDIAN BLOOD QUANTUM FOR WHOM THE TOTALITY OF THE EVIDENCE ESTABLISHES A PARTICULAR BLOOD QUANTUM

Name	1929 Census	1929 Census BQ for Parents or Grandparents	1933 Census	1933 Census BQ for Parents or Grandparents	Federal Indian School Records	Parents blood degree in 1900 Federal Census	Parents blood degree in 1900 Federal Census
[REDACTED]	7/8	4/4	1/2	4/4	4/4	4/4	4/4
[REDACTED]	7/8	4/4	1/2	4/4	4/4	4/4	4/4
[REDACTED]	7/16	7/8 ¹⁰	1/2	4/4 ¹¹	None	4/4 ¹²	1/2
[REDACTED]	7/8	4/4	1/2	4/4	4/4 ¹³	4/4	4/4

Note: A "+" indicates that the member listed is deceased.

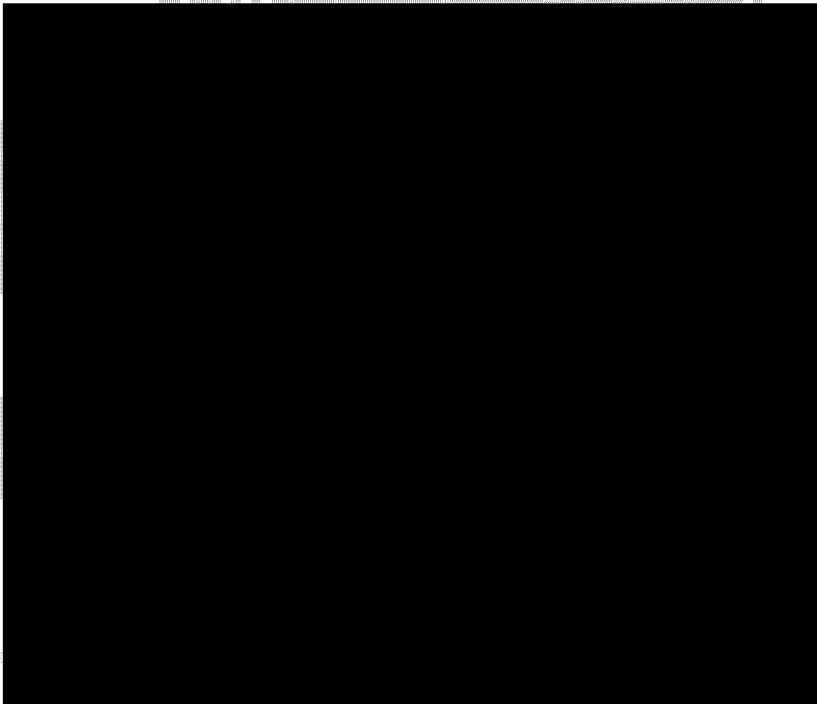
In addition to the above federal records relating to these four individuals, additional evidence described below confirms their respective blood quantum.

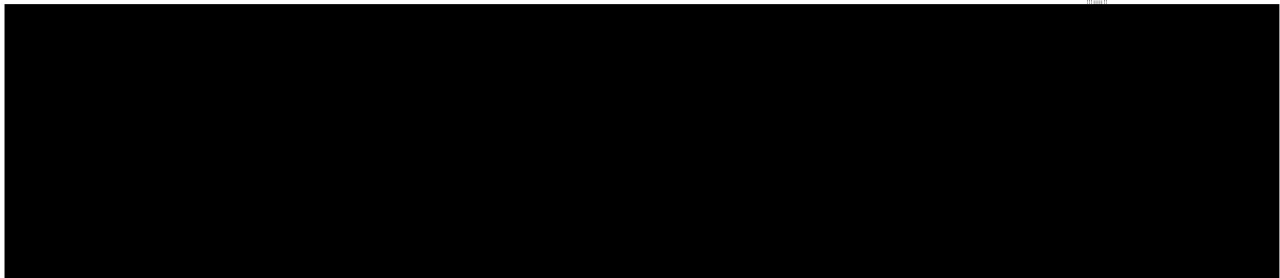
(Photos 1 and 2)

(Photo 3)

FOIA6

FOIA6

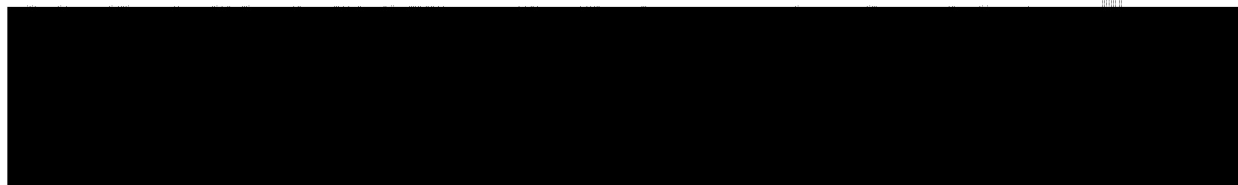




Finally, in Table III we have identified those modern Tejon half-blood individuals whose blood quantum calculation depends upon the blood quantum of those individuals listed in Table II. The information in Table III demonstrates that regardless of how the blood quantum is resolved for those individuals in Table II, all but two of the individuals in Table III possess one-half or more Indian blood:

TABLE III - TEJON MEMBERS FOR WHOM THEIR BLOOD QUANTUM DEPENDS ON RESOLUTION OF MEMBERS OR ANCESTORS IN TABLE II.

Name/Siblings	Range of Potential Blood Quantum	Explanation
[REDACTED]	1/2 - 3/8	[REDACTED]
[REDACTED]	7/8 - 5/8	[REDACTED] FOIA6 [REDACTED]
[REDACTED]	3/4 - 1/2	[REDACTED]



	4/4 - 3/4	
	7/8 - 5/8	

In summary, if the Department limits its review to the 1929 Federal Indian Census, at least 28 members are one-half or more Indian blood based on that census. If the Department limits its review to the 1933 roll, at least 33 members are one-half or more Indian blood. If the Department calculates blood quantum based on the totality of the evidence, 35 members¹⁸ have an Indian blood quantum of one-half or more. For the reasons discussed in Part II below, we think applicable practice and law dictate that the totality of the evidence must be used to determine blood quantum.

¹⁸ Again, we note that this memorandum requests confirmation for all 35 Tejon half-blood members, although the actual number of living half-bloods is 34 because one of the 35 half-blood members passed away since the time the Tribe submitted its materials to the Department.

PART II

**LEGAL STANDARDS FOR DETERMINING INDIAN BLOOD QUANTUM
AND APPLICATION OF THOSE STANDARDS TO THE AVAILABLE EVIDENCE**

A. The Courts will Give Deference to a Decision that Follows Commissioner of Indian Affairs John Collier's 1936 Memorandum.

In 1936, Commissioner John Collier issued a Memorandum ("Collier Memorandum") establishing the Bureau of Indian Affairs' policy for determining whether an individual is one-half or more Indian blood for purposes of Section 19 of the Indian Reorganization Act. Collier is widely viewed as having crafted the 1934 Indian Reorganization Act, *see* Cohen's Handbook of Federal Indian Law, at 86 (2005 ed.), and the Collier Memorandum, issued shortly after its passage, "outlines the policy which the Indian Office will pursue in determining" Indian blood quantum under the Act. As such, any decision by the Department in this case must take into account the approach set forth in that memorandum in order to be entitled to judicial deference.

More specifically, the courts have held that deference to an agency's administration of a statute is not limited to regulations promulgated pursuant to notice and comment rulemaking. *United States v Mead*, 533 U.S. 218, 231 (2001) (lack of notice and comment rulemaking "does not decide the case, for we have sometimes found reasons for *Chevron* deference even when no such administrative formality was required and none was afforded[.]"). Agency guidance, memoranda, and policy statements are "entitled to considerable weight" or "respect" if the interpretation: 1) represents an agency-wide position; 2) is contemporaneous with the enactment of the legislation and has been adhered to by the agency since that time; 3) the agency's position reflects a reasonable construction of the statute; and 4) the interpretation is the product of the agency's specialized expertise. *Alaska Dept. of Environmental Conservation v E.P.A.*, 540 U.S. 461, 487-495 (2004); *Cathedral Candle Co. v U.S. International Trade Comm'n*, 400 F.3d 1352, 1366-67 (Fed. Cir. 2005).

Accordingly, the Collier Memorandum clearly is entitled to considerable weight or respect. The Collier Memorandum, issued by one of the Indian Reorganization Act's principal architects soon after enactment, undeniably states that it "outlines the policy which the Indian Office will pursue in determining" Indian blood quantum. This statement, issued by BIA's highest-ranking official, clearly establishes that the totality-of-the-evidence approach described in the Memorandum represents an agency-wide position. The timing of the Collier Memorandum is contemporaneous with the underlying legislation, as it was issued shortly after passage of the Act and, to the best of our knowledge, the Department has acted consistently with this Memorandum since its issuance. Congress, recognizing that the determination of Indian blood quantum certainly is an area of specialized expertise, has repeatedly tasked the Department with such determinations. The approach set forth in Collier's Memorandum is based on the Department's extensive experience, and indicates that prior Indian rolls accepted as accurate for official purposes are one source of evidence that may be relied upon by the agency. Given Collier's hand in shaping the Indian Reorganization Act and the agency's expertise in determining Indian blood quantum, the Collier Memorandum reflects a reasonable construction of section 19 of the Indian Reorganization Act.¹⁹

¹⁹ Courts generally apply a deferential standard of review to the Bureau's administrative determinations of blood quantum. *Harrison v Dep't of the Interior*, 229 F.3d 1163 (10th Cir. 2000)

Thus, any Departmental decision that relies on the Collier Memorandum would be entitled to judicial deference.

B. Collier's Memorandum Establishes Clear Standards that Direct a Totality of the Evidence Approach

Collier's Memorandum establishes clear standards for determining Indian blood quantum. Reflecting the Department's learned experience, Collier acknowledges at the outset that the method of determining blood degree must provide for "some administrative latitude" given that the determination of Indian blood quantum "is entirely dependent on circumstantial evidence[.]" This approach is consistent with the Bureau's recent statements to Chairwoman Morgan that it will consider the totality of the evidence in evaluating Indian blood quantum.

Collier identifies five classes of evidence that may be used to determine blood quantum, the following three of which are relevant for our purposes:

- Tribal rolls or censuses which record the degree of Indian blood and have been accepted for official purposes.
- Testimony of the applicant, supported by official records showing blood degree or familial relationships.
- Affidavits from persons who know the applicant and are familiar with the individual's background.

Collier never indicates that the classes of evidence are mutually exclusive, *i.e.*, that if there are multiple classes of evidence available for a group like Tejon that the Bureau must base its certification decision on a particular roll or class of evidence to determine blood quantum to the exclusion of the other available evidence. To the contrary, Collier repudiates such an approach, expressly stating that in reviewing recommendations from staff the Assistant Secretary "will exercise administrative discretion in determining what comparative weight shall be given to the various kinds of evidence."

Importantly, Collier's Memorandum establishes burdens of proof for both the applicant and the Bureau in making blood quantum determinations.

The premise on which the Indian Office will act in considering the application of an unenrolled Indian claiming one-half or more of Indian blood is that the burden of proof must rest upon the applicant; provided that if the applicant's parents or other direct

(unpublished decision). Under this deferential standard of review, the Bureau's decision will be set aside only if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." *Id.* at 1163.

ancestors have been enrolled on a tribal roll or census giving positive information as to degree of Indian blood, such evidence will ordinarily be accepted as sufficient. *If such a tribal roll or census is subject to doubt on the question of blood degree, the burden of proof will be upon the Indian Office to show why such evidence shall not be accepted.*

Id. at 2 (emphasis added). Also important to note is that in 2000, the Department issued proposed regulations codifying the type of evidence an applicant may submit to receive a CDIB. See 65 Fed. Reg. 20775 (April 18, 2000). Those proposed regulations request applicants to submit evidence of inclusion on tribal rolls or censuses or official birth and death records establishing familial relationships. Thus, the documentation requests contained in Interior's proposed regulations (which have not yet been finalized) are consistent with the Collier Memorandum.

As explained below, the materials submitted in support of the 35 Tejon members clearly satisfy Collier's articulated burden of proof for an applicant. The burden now shifts to the Bureau to explain any basis for disagreement. For the reasons expressed below, we submit that there is no reasonable basis for disagreement, based on the totality of the evidence.

C. Application of the Collier Memorandum Standards and Previous Agency Practice Result in a Finding that 35 Tejon Members Possess One-Half or More Indian Blood.

Our understanding is that the Bureau does not dispute that the 28 members determined by the 1929 census possess 1/2 or more Indian blood, based on the blood quanta listed in that document. We further understand that if the Bureau arbitrarily were to limit its analysis to the 1929 Indian census, the Bureau may consider lowering the identified blood quantum of [REDACTED] because neither she nor her mother [REDACTED] are listed on that census. Such an approach would lower [REDACTED] blood quantum to 1/2 and would have the effect of lowering five additional members to less than one-half Indian blood.²⁰

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As is clear from the description above, however, such an approach would be clearly erroneous and inconsistent with the Collier Memorandum. Collier's Memorandum provides that "if an applicant's parents . . . have been enrolled on a tribal roll or census . . . such evidence will ordinarily be accepted as sufficient." Collier does not preclude the use of multiple rolls or censuses to demonstrate the blood quantum of a parent. Although the 1929 Indian census does not include [REDACTED] the 1933 California Indian Roll expressly finds [REDACTED] to be a full blood Indian. Further, [REDACTED] full brother [REDACTED] also is listed as 4/4 on every available record and [REDACTED] is listed on the 1929 Indian census as 4/4. And the Sherman Indian School records for [REDACTED] record them as 4/4 and both their mother [REDACTED] and father as 4/4.²¹ In other words, the

²⁰ Those members that would be adversely impacted by this unsupportable approach would be [REDACTED]

²¹ The Bureau has previously relied upon blood quantum determinations found in Sherman Institute records to explain the provision of services to individual members. See Final Determination regarding the Muwekma Ohlone Tribe at 25 - 26.

only Indian census that includes [REDACTED] 4/4 Indian and every other available federal record confirms a 4/4 Indian blood quantum. Under the Collier Memorandum, this blood quantum determination is dispositive given the absence of any conflicting information.

Furthermore, in other instances the Bureau has analyzed blood quantum for California tribal members based on the 1933 California Indian Roll and federal Indian censuses. For the Death Valley Timbi-Sha Shoshone Band of Indians of California, the Bureau's Genealogical Report analyzed blood quantum evidence from the 1933 California Indian Roll and a 1936 census of Death Valley Indians that showed blood quantum. The Bureau noted "some discrepancies in the degrees of Indian blood" within the various federal sources. Genealogical Report of the Death Valley Timbi-Sha Shoshone Band of Indians of California, at 11. The Bureau resolved these "discrepancies" as follows:

In determining degrees of Indian blood of the Death Valley tribal members for purposes of this report, the highest degree of Indian blood shown for them on the Bureau censuses have been used in most cases.

Id. at 11 (emphasis added). The Bureau noted that where there were clear errors in calculation based on an individual's parents' blood quantum, the Bureau made those corrections unless later federal records established a higher blood quantum.

Determination of blood degrees of some tribal members differs from that ascribed to them by the band. There are some cases in the records, i.e., the 1928 applications, where fathers of children are shown as non-Indian and where the mother did not indicate the father's name. In such cases only 1/2 of the mother's degree of Indian blood should have been used in determining the blood degrees of her children. However, *if these individuals were consistently shown on the rolls over the years as possessing a higher degree of Indian blood we have generally accepted the higher degree of Indian blood for them.*

Id. (Emphasis added). Thus, the Department's administrative practice further supports establishing Isabel Hinio's blood quantum as 4/4 because it is the highest degree of Indian blood shown for her on the 1933 census.

We further understand that the Bureau does not dispute the *minimum* blood quantum for [REDACTED] or those individuals listed in Table III. The heart of the focus, then, is on the definitive blood quantum for those four individuals listed in Table II. Three of those individuals, [REDACTED] In both the 1929 and 1933 censuses their parents are listed as 4/4. In what can only be attributed to a mathematical error, the 1929 census lists the brothers as 7/8 and the 1933 census lists them as 1/2. Such quantifications are clearly inconsistent with their parents' consistently-listed blood quanta and with the Sherman Indian School records for these brothers which identify them or their sibling as 4/4. It is further inconsistent with the analysis and findings of Dr. John R. Johnson. In other words, three classes of evidence identified by Commissioner Collier - the census rolls for their parents, other official records, and testimony from a person who knows or knew the individuals and is familiar with their

background – all support a 4/4 blood quantum for [REDACTED]²². Indeed, in the Genealogical Report of the Death Valley Timbi-Sha Shoshone Band of Indians of California, the Bureau noted that it adjusted mathematical errors unless later records showed a higher degree of Indian blood. Here, the mathematical errors present in the 1929 census and the 1933 California Indian roll support adjusting the [REDACTED] respective blood quantum higher to 4/4 and later records from the Sherman Institute confirm their 4/4 blood quantum. The Bureau clearly has a duty under the Collier Memorandum and its practice in the Death Valley Timbi-Sha Shoshone case to correct these inconsistent mathematical errors and confirm a 4/4 blood quantum based on the [REDACTED] consistently-reported blood quanta.

With regard to [REDACTED] the inconsistency is produced by one federal record, the 1929 Indian census. For unknown reasons, the census lists [REDACTED] as 7/8 whereas every other available record, including the 1933 Indians of California roll and the 1900 census clearly result in a 4/4 blood quantum for [REDACTED] and a 1/2 blood quantum for [REDACTED]. In other words, the totality of the evidence clearly directs a 4/4 blood quantum for [REDACTED] and her parents. Further, [REDACTED] blood quantum under the 1933 census is listed as 1/2, the highest reported blood quantum. In addition to all the other evidence, the Bureau should proceed consistently with its approach in Death Valley Timbi-Sha Shoshone of using the highest recorded blood quantum. Hence, [REDACTED] is one-half Indian blood, as accurately identified in the 1933 California roll.

Based on the standards articulated in the Collier Memorandum and consistent with prior Bureau administrative practice, the totality of the evidence submitted and confirmed by Interior demonstrates that 35 Tejon members have one-half or more Indian blood. The definitive blood quantum for each Tejon member is provided in Table IV below.

TABLE IV – FINAL BLOOD QUANTUM OF 35 TEJON MEMBERS BASED ON THE TOTALITY OF THE EVIDENCE.

	NAME	BLOOD QUANTUM
1	[REDACTED]	3/4
2		3/4
3		1/2
4		1/2
5		1/2
6		1/2
7		1/2
8		1/2
9		1/2
10		1/2
11		1/2

²² Dr. Johnson is well-acquainted with [REDACTED] and has met both [REDACTED] [REDACTED]

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Note: A "†" indicates that the member listed is deceased.

CONCLUSION

The Tejon Tribe has a unique and long history demonstrating not only that they are a community of half-blood Indians, but also and more importantly, that they are a genuine community of related Indians for whom the Department of the Interior has actively exercised trust responsibilities. As such, the half-blood community reorganization process set out in the Indian Reorganization Act and the Department's implementing regulations is uniquely well-suited to the Tejon Tribe. For these reasons, as well as the foregoing blood quantum analysis, we respectfully request that the Bureau expeditiously certify that the 35 Tejon members identified herein are one-half or more Indian blood.